

REMARKS/ARGUMENTS

Claims 1-24, 44 and 46 are canceled.

Claims 48-66 are new.

Support for each new and amended claim is found throughout the specification and at the originally filed Claims.

Upon entry of the amendment, Claims 25-43, 45, and 47-66 will be active.

No new matter is believed to have been added.

Applicants thank Examiner Naff for the helpful and courteous discussion of January 12, 2007, wherein it was decided by the Office that the Applicants could submit a Supplementary Amendment and Request for Reconsideration to address the obviousness rejections, as it appeared to the Office that the arguments and amendments presented in the Amendment of December 26, 2006, would not overcome this rejections.

Applicants respectfully traverse the obviousness rejections of Claims 25-31, 33-45 and 47, and Claim 32.

Applicants traverse the obviousness rejection because the references relied on by the Office are not enabling for the limitation of, for example, Claims 25 and 40 “wherein the nanoparticles in the metal nanoparticle-nucleic acid composites cannot be visualized by atomic force microscopy,” and the limitations of, for example, Claims 48-50, “wherein the nanoparticles in the metal nanoparticle-nucleic acid composites have a width of 2 nm.”

Applicants note that Pompe is not enabled for nanoparticles in the metal nanoparticle-nucleic acid composites being below 3 nm, because the nanoparticles formed by Pompe “have a diameter of 3 to 5 nm” (please see Pompe, page 1090, first column, last paragraph).

This deficiency is not remedied by Richter, because while Richter at page 508, column 1, describes that “regularly aligned cluster of 1-5 nm diameter *would allow*

investigations on single electron tunneling (SET) at room temperature,” in fact Richter is only enabled for clusters with a diameter of 3-5 nm (please see page 508, column 2, line 9, and page 509, column 2, last paragraph of Richter).

Newsman does not remedy the enabling deficiency of Richter and Pompe.

Accordingly, Applicants respectfully request withdrawal of the obviousness rejections.

Additionally, Applicants traverse the rejection of Claim 29, because none of the cited references describe or suggest the limitation, found in Claim 29, that “the nucleic acid specific metal complex is dichloro (2,2':6',2''-terpyridine)platinum (II).” Withdrawal of the obviousness rejection is requested for this claim.

Finally, Applicants respectfully submit that the limitations of Claims 53-66 are not described or suggested by the cited references.

Applicants respectfully submit the amendments to the claims obviate the indefiniteness rejection.

With respect to the provisional double patenting rejection, Applicants respectfully request that the Office withdraw the rejection and, when this application issues as a patent, apply the rejection, non-provisionally, to Application No. 10/210,812.

Applicants respectfully submit the present application is now in condition for allowance. Early notification to this effect is earnestly solicited.

Application No. 09/990,049

Supplementary Amendment and Request for Reconsideration

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

Charles J. Andres, Jr., Ph.D.
Registration No. 57,537